

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA,)
)
v.)
) CAUSE NO. 2:08 CR 50
ANDRES ZARAGOZA)
)

FINDINGS AND RECOMMENDATION
OF THE MAGISTRATE JUDGE
UPON A PLEA OF GUILTY

TO: THE HONORABLE RUDY LOZANO, JUDGE
UNITED STATES DISTRICT COURT

Upon defendant's request to enter a plea of guilty pursuant to Federal Rule of Criminal Procedure 11, this matter came on for hearing before the Honorable Andrew P. Rodovich, United States Magistrate Judge, on February 12, 2009, with the written consents of the defendant, counsel for the defendant, and counsel for the United States of America.

The hearing on defendant's plea of guilty was in full compliance with Rule 11, before the Magistrate Judge in open court and on the record.

In consideration of that hearing and the statements made by the defendant under oath on the record and in the presence of counsel, the remarks of Assistant United States Attorney David Nozick and of Kevin Smith, counsel for defendant,

I **FIND** as follows:

- (1) that the defendant understands the nature of the charge against him to which the plea is offered;
- (2) that the defendant understands his right to trial by jury, to persist in his plea of not guilty, to the

assistance of counsel at trial, to confront and cross-examine adverse witnesses, and his right against compelled self-incrimination;

- (3) that the defendant understands what the maximum possible sentence is, including the effect of the supervised release term, and defendant understands that the Probation Department will prepare a pre-sentence report based upon the sentencing guidelines but that the court may depart from those guidelines under some circumstances;
- (4) that the plea of guilty by the defendant has been knowingly and voluntarily made and is not the result of force or threats or of promises;
- (5) that the defendant is competent to plead guilty;
- (6) that the defendant understands that his answers may later be used against him in a prosecution for perjury or false statement;
- (7) that there is a factual basis for the defendant's plea; and further,

I **RECOMMEND** that the court accept the defendant's plea of guilty to the offense charged in Count 1 of the indictment and that the defendant be adjudged guilty of the offense charged in Count 1 of the indictment and have sentence imposed. A pre-sentence report has been ordered. Should this Report and Recommendation be accepted and the defendant adjudged guilty, sentencing

has been scheduled for April 29, 2009, at 2:15 P.M. before Judge
Rudy Lozano.

ENTERED this 2nd day of April, 2009

s/ Andrew P. Rodovich
United States Magistrate Judge